

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 20, 2002

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 20, 2002, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Jerry Michaelis, Chair, Bud Hentzen, Vice-Chair; Don Anderson; Bill Johnson; Harold Warner; Frank Garofalo; Ray Warren; Elizabeth Bishop; Dorman Blake; and John McKay, Jr. The following members were absent: Kerry Coulter; Ron Marnell; David Wells; and James Barfield. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; and Rose Simmering, Recording Secretary.

1. Approval of the MAPC minutes for June 6, 2002.

MOTION: That the minutes for June 6, 2002 be approved.

MCKAY, JR. moved, BLAKE seconded the motion, and it carried (10-0).

2. Consideration of Subdivision Committee Recommendations

2-1. SUB2002-45 – One-Step Final Plat of STEVENS THIRD ADDITION, generally located on the southeast corner of Kellogg and Greenwich Road.

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees are required.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. Improvements are required at time of site development.**
- D. **Traffic Engineering** needs to comment on the access controls and the need for specifying the location of the openings. The plat proposes three access openings along the Greenwich; the northernmost opening is temporary until Kellogg is improved to freeway standards. **Traffic Engineering has required complete access control along the south 200 feet of the property. The existing opening for the vacated Orme may be retained. The existing opening north of Orme shall be closed. The opening along the north property line may be retained until Kellogg is improved to freeway standards. The Applicant shall meet with Traffic Engineering to determine the specific location of the temporary opening.**

- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- O. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, MCKAY, JR. seconded the motion, and it carried (10-0).

2-2. SUB2002-46 – One-Step Final Plat of HAMILTON MIDDLE SCHOOL ADDITION, generally located north of Harry, on the west side of Broadway.

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees are required.**
- B. A temporary easement by separate instrument should be submitted to cover the existing sewer line to be relocated.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **No improvements are required.**
- F. **Traffic Engineering** needs to comment on the access controls and the need for specifying the location of the openings. The plat proposes two access openings along Broadway. The final plat shall reference the dedication of access controls in the plat's text. **Traffic Engineering has required complete access control along Broadway.**
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- H. **Traffic Engineering** needs to comment on the need for additional right-of-way or contingent right-of-way for Broadway. The Subdivision Regulations require a 50-ft half street right-of-way for arterials. **Traffic Engineering has required a 10-ft contingent dedication of right-of-way along Broadway.**
- I. **Traffic Engineering** needs to comment on the need for additional right-of-way for Boston which is platted as a 20-ft half street right-of-way, less than the standard 30 feet for pre-existing city streets. **Traffic Engineering has required a 10-ft dedication of additional right-of-way along Boston. The Subdivision Committee has not required this dedication of right-of-way.**
- J. The applicant is advised that in regard to the portion of the building within the building setback; that while such areas of the existing structure may be maintained, no enlargement of the building in such area will be allowed and if removed, all subsequent rebuilding shall observe building setbacks.
- K. The plat's text shall include language that a drainage plan has been developed for

the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

GAROFALO: I have a question about this case. Have the right-of-ways been changed since this report was prepared? Does this report need to be revised?

NEIL STRAHL, Senior Planner: The issue on the right-of-way, staff requested a 10 foot right-of-way on Boston. Right now there is a 20 foot right-of-way and the applicant did not desire to dedicate that right-of-way due to the proposed construction of the

playground. They will dedicate the 10 foot on Broadway. Since last week, the applicant has offered a 10 foot utility easement on Boston which is approved by staff.

GAROFALO: So now it is a non-issue?

STRAHL: We will have 10 foot on Boston and a 10 foot utility easement on Broadway.

WARREN: I made the opposition vote at the Subdivision hearing vote.

MOTION: To approve, subject to revised staff comments and citing the findings in their report.

GAROFALO moved, BISHOP seconded the motion, and it carried (10-0).

2-3. DED2002-18 – Dedication of a Utility Easement, from Marvin Schellenberg, for property generally located on the southwest corner of 37th Street North and Ridge Road.

OWNER/APPLICANT: Marvin Schellenberg, 7926 W. 21st Street No., Wichita, KS 67205

AGENT/ENGINEER: Tim Austin, Austin Miller, P.A. 355 N. Waco, Ste. 200, Wichita, KS 67202

LEGAL DESCRIPTION: A 10' wide utility easement with the following described centerline: Beginning at a point on the east line of Lot 1, Block 1, Hoskinson Second Addition, Sedgwick County, Kansas; 421.62 feet south of the northeast corner of said Lot 1; thence south 89° 31' 53" west, parallel with the south line of said Lot 1, for a distance of 82'; thence south 65° 32' 02" west for a distance of 72.82' to the west line of Lot 1.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2002-25 and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, MCKAY, Jr., seconded the motion, and it carried (10-0).

3-1. VAC2002-00020 – Request to vacate Portion of a Platted Utility Easement.

OWNER/APPLICANT: Kansas Spine Hospital, LLC

AGENT: MKEC Engineering Consultants, Inc, c/o Doug Klassen

LEGAL DESCRIPTION: The West 10-feet of the North 20-feet of Lot 6, Block 4, Mediterranean Plaza Addition, an addition to Wichita, Sedgwick County, Kansas, and the East 10-feet of the North 20-feet of Lot 5, Block 4, Mediterranean Plaza Addition, an addition to Wichita, Sedgwick County, Kansas.

LOCATION: Northeast of 29th Street North and Webb Road intersection.

REASON FOR REQUEST: The applicant proposes further development under one ownership.

CURRENT ZONING: Subject property and adjacent properties are zoned "LI" Limited industrial.

The applicant proposes future development of Lots 4, 5, & 6, Block 4, Mediterranean Plaza Addition, under one ownership and proposes a vacation of the 20-foot (x) 20-foot easement as described in the legal description.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 30, 2002, which was at least 20 days prior to this public hearing.
2. That private rights will not be injured or endangered by the vacation of the above-described portion of the platted 20-foot utility easement and the public will not suffer loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be approved.

B. Therefore, the vacation of the portion of the platted 20-foot utility easement described in the petition should be approved subject to the following conditions:

- (1) Provided a covenant to be recorded with the Register of Deeds tying Lots 4, 5 & 6, Block 4, Mediterranean Plaza Addition, under one ownership. Covenant shall become void when each lot has access to sewer.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, HENTZEN seconded the motion, and it carried (10-0).

4. **CON2001-00069** – KRC, LLC, c/o Jeffery Johnson (Applicant/Owner) request a Conditional Use to allow portable rock crusher on property described as:

Lot 3, Burlington Northern Industrial Center, Wichita, Sedgwick County, Kansas.
Generally located northwest of the 29th Street North – Ohio intersection.

BACKGROUND: A Conditional Use is being sought to allow a rock crusher on property zoned “GI” General Industrial. The site is located approximately ½ mile north of 29th Street North on the west side of Ohio (see attached site plan). The application area is approximately 4.80 acres in size, and is platted as Lot 3, Burlington Northern Industrial Center Addition. The applicant also owns the 11.4 acres located immediately south of the application area (Lot 2, Burlington Northern Industrial Center Addition). These two lots are separated by a drainage easement. The applicant is one of the contractors reconstructing I-135 and the I-135 - 21st Street North interchange. The highway project will generate significant amounts of material to be crushed. The application area is conveniently located within two miles of the job site. Also, the applicant intends to locate a concrete plant on Lot 2. Lot 2 is already zoned “GI” and permits the concrete plant as a “use by right.” A rock crusher located on Lot 3 would be an additional convenience in operating the concrete plant. Material ran through the crusher can be used by the concrete plant. The applicant has indicated that the concrete plant will be located on Lot 2 regardless of the outcome of the Conditional Use request for the rock crusher.

As indicated on the site plan, two access points off of Ohio are proposed for the lot on which the rock crusher is to be located. These access points have been installed. Currently there are aggregate piles located on the site. The site plan depicts landscaping and berms to be located along the east and north property line. The rock crusher would be located in the east-center portion of the site as there is a pipeline easement and a drainage easement located in the western half of the site. The applicant indicates that the rock crusher will be needed through early summer 2003. The applicant currently has the rock crusher located within K-DOT right-of-way during the first year (spring 2002 – spring 2003) of the highway project. During the second year (2003) of the project, the rock crusher would be moved to the application area, and run for 20, non-consecutive, days out of that year, generally late spring through early summer. Hours of operation for the crusher are generally 7:00 A.M. to 5:00 P.M. Monday through Friday. Average Daily Trips to be generated by the rock crusher have not been determined. The site plan shows berms and landscaping on the concrete plant site connecting to the crusher site and a 6-foot chain link fence, with 3 strains of barbed wire around the crusher site and concrete plant.

Properties immediately surrounding the application area are undeveloped and zoned “GI”, except for two exceptions. The first exception is the applicant’s abutting property located on the south. This property is currently being developed with a wet batch concrete plant. The second exception is the property located immediately to the north.

This is being developed as an adult soccer field by the City Park Department. The Park Department plans to have the soccer field in use by the spring of 2003. Beyond the site's immediate area the zoning is "GI" and developed as manufacturing, warehousing, grain elevators and shipping and receiving facilities. Included in this area is the Bridgeport Industrial Park. The newest development in the surrounding area is located west of the site, across the railroad tracks: the York manufacturing facility. There are plans for another expansion in the near future.

The Park Department has received calls from groups that will be using the adult soccer fields expressing opposition to the proposed rock crusher being located next to their playing fields. Concerns identified to date include: noise, dust, truck traffic and extended hours of operation. The applicant has had discussions with the Park Department in regards to these issues. The soccer field should be ready for use in the spring of 2003. The season will be from Easter to Thanksgiving. Use of the soccer fields during the season will be, games every Sunday from 9AM – 7PM and practice Monday & Tuesday, 6PM to dusk. The applicant has indicated that the days of operation could be modified to operate when the soccer field is not in use for practice or games. There appears to be no conflict between the use of the soccer fields in 2003 and the 20-day conditional use for the crusher. The Planning Staff has met with the Environmental Health and Code Enforcement Staff who have indicated that concrete plant will create more emissions than the rock crusher, in consideration of the year round operation of the plant versus the 20 day operation period of the crusher.

DAB VI recommended the Conditional Use, 8-1, at their May 6 meeting per Staff's conditions and modification in regards to having the landscaping and berms in place within 60 days of approval of the Conditional Use and specifying that the 20 days of operation for the rock crusher are not consecutive days. The Board of Park Commissioners voted to approve the Conditional Use, 7-0, at their May 13 meeting, per Staff's conditions and the noted modifications recommended by DAB VI.

CASE HISTORY: The Burlington Northern Industrial Addition was recorded with Sedgwick County October 17, 1984. The property was undeveloped prior to its platting, but recently has been scraped and has aggregate piles on it.

ADJACENT ZONING AND LAND USE:

SOUTH:	"GI" General Industrial	Undeveloped, Industrial Park, Small business, RR ROW, Grain elevators
NORTH:	"GI" General Industrial	Park, Warehouse, Undeveloped Shipping & Receiving
EAST:	"GI" General Industrial	Undeveloped, burrow pit
WEST:	"GI" General Industrial	Manufacturing, Warehouses Grain elevators

PUBLIC SERVICES: The site and the abutting concrete plant is accessible from Ohio, a paved 2-lane road. Traffic to and from the site can go to either 29th or 37th Streets North, both 4-lane arterials, which provide access to I-135. The nearest intersection with a record of Average Daily Trips (ADT) is at Hydraulic & 37th Street North: just east of the I-135 – 37th Street North interchange. ADTs north of the intersection are 2,656,

ADTs south of the intersection are 6,825, ADTs west of the intersection are 5,871 and ADTs east of the intersection are 5,134. K-DOT is currently improving the I-135 – 21st Street North interchange. There are approximately 61,000 ADTs in this section of I-135 off of 21st Street North. There is gas, water, sewer and electricity for the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as Industrial. Industrial location guidelines indicate that development is to be evaluated on characteristics of the individual use, nature of the emissions, the surrounding uses and zoning districts and the degree of compatibility with adjacent uses. The Unified Zoning Code requires a Conditional use for “Rock Crushing” in all residential zoning districts, in “GO”, “NR”, “LC”, “GC”, “CBD”, “LI”, and “GI” zoning districts. The Site is zoned “GI” which permits a wide range of uses, including the most intense uses permitted. The code anticipates that uses such as the rock crusher might be appropriate in an industrial area. The site is just outside the ‘Urban Renewal General Land Use Plan, 1976’ guidelines, which encourages industrial activities that are, typically contained within structures. The ‘Urban Renewal General Land Use Plan, 1976’ is adjacent to the site on the north, south and west sides.

RECOMMENDATION: Based on the information available prior to the public hearing, and considering the proximity of the site to the I-135 project, the limited duration for which the rock crusher is needed and the symbiotic relationship between the concrete plant and the rock crusher, staff recommends the application be APPROVED, with the following conditions.

1. Submit a revised site plan to be approved by the Planning Director. The plan will show circulation and parking between the concrete plant site and the rock crusher and location of aggregate piles and all other improvements to the site. As shown on the site plan a 6-foot chain link fence with 3 strains of barbed wire will be around the crusher site.
2. All internal circulation and ingress – egress to be watered during hours of operation or treated with a product to minimize blowing dust and/or surfaced with an approved all weather surfaces.
3. Submit a revised Landscape Plan to be approved by the Planning Director. A berm, 20-ft wide and 10-ft high to be placed along the north property line of the site. The berm, will be planted in grass and Conifer trees, a minimum of 5-ft in height and planted every 15-ft. on top of the berm. A 6-ft high berm, 10-ft wide will be placed along the east and west property lines and planted with grass and Conifer trees, a minimum of 5-ft in height and planted every 15-ft. on top of the berm. Berms will not be in any easements. Landscaping shall be completely installed prior to operation of the crusher and shall be developed according to the approved Land Scape Plan. All landscaping will be maintained as required in the Landscape Ordinance.
4. A drainage plan must be submitted and approved by the City Engineer.
5. All aggregate piles will be no higher than 20-ft and watered as necessary to minimize blowing dust. Capacity of dust and emissions of dust from the rock

crusher, the aggregate piles or any facility cannot exceed opacity as determined by the Wichita Environmental Health – Air Quality Staff and the Kansas Air Pollution Control Regulations.

6. Any stockpiling of fuels or chemicals on this site must be approved by the Health Department.
7. The applicant shall meet all permitting, reporting and operating requirements as necessary per the local, state and federal levels prior to any crushing activities on this site.
8. The level of noise generated by the rock crusher shall not exceed community standards as specified by City Ordinance and determined by the Wichita Environmental Health Department.
9. The operation of the crusher is limited to 20 days beginning in the late spring – early summer of 2003. The applicant shall notify the Permits and Planning Staff when that 20-day period begins. Hours of operation will be 7 AM – 5 PM Monday - Friday. No operation of the crusher is permitted during weekends or State or Federal Holidays
10. Any violation of the conditions of approval will allow the Conditional Use to be declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned "GI" General Industrial. The immediate surrounding area is developed as shipping and receiving facilities, manufacturing, Railroad ROW, some undeveloped property, a concrete plant and a park.
2. The suitability of the subject property for the uses to which it has been restricted: Industrial development on the site as currently zoned "GI" is likely. The area around the site is zoned "GI" and recent development of the York Facility and the concrete plant in the area indicates likelihood of some type of industrial development. Rock crushers are typically located next to concrete – asphalt – recycling plants, but are not a necessary operation feature.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Typically crushers are located in more isolated areas along the fringe of the City limits. Successful (in terms minimizing the negative impact on the immediate area with traffic, dust and noise) examples being the rock crushers at the K-96 – Hillside interchange and the K-96 – 37th Street North interchange. Less successful would be the one located at K-15 – 31st Street South. What contributes to a successful location is a somewhat isolated industrial location coupled with major physical barriers around it (the Big Ditch or other extensive drainage and freeways), having similar uncontained activity (the land fill) in the area and immediate access to freeways or major arterials. The applicant's proposal to use the site for only 4 weeks coupled with

landscaping and berms would minimize its impact on the area, in particularly to the abutting park property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for "Rock Crusher", on "GI" General Industrial is a Conditional Use per the WSC Unified Zoning Code. The Comprehensive Plan recommends the best use for this area as Industrial.
5. Impact of the proposed development on community facilities: I-135 improvements represent a critical enhancement not only to local traffic, but also to regional and national traffic. I-135 provides is the link from I-35 and I-70. A strategically located rock crusher will facility the completion of this project in an efficient manner in regards to time allowed for the project, the cost of the project and localizing the job traffic of the project.

LONGNECKER: Item number 4, is CON2001-69. This case was deferred from May 23rd for 30 days by request of MAPC. This Conditional Use is to allow a portable rock crusher on property that is currently zoned "GI" General Industrial. This site is approximately 4.8 acres in size and it is located northwest of 29th Street and the Ohio Street intersection; on the west side of Ohio Street. As you can see with the zoning map here. This site is a platted site. It is Lot 3, the Burlington Northern Industrial Center Addition. The applicant who is requesting the rock crusher Conditional Use also owns the 11.4 acres located immediately to the south of this site. That site map shows this as being undeveloped, but as we go through the photos you will note that there is a concrete plant on that.

These two sites are separated by a drainage easement. The applicant, Wittwer Company, is one of the contractors reconstructing the I-135 and 21st Street North interchange. The application area is conveniently located within two miles of the job site and is adjacent to the concrete plant. The applicant has indicated that the concrete plant will be located on the south lot regardless of the outcome of the Conditional Use request.

You have a site plan that shows that there are two access points off of Ohio onto the lot for the rock crusher and these have been installed. The site plan also shows landscaping with berms along the east and the north sides of the property. It also shows a pipeline easement and a drainage easement which run diagonal through this site. The applicant has shown the rock crusher will be located centrally on this site. The applicant has indicated that the rock crusher will be needed through the early summer of 2003. Currently the applicant has a rock crusher located on K-DOT right-of-way which is in operation now. This will be for the first year of this two year project of this improvement of I-135 – 21st Street North interchange. This is going to be there through the spring (2002 – Spring 2003) for this project. During the second year (2003) of the project, this is when the applicant would like to move the rock crusher onto the 4.8 acres. It will run for 20, non-consecutive, days out of that year, generally late spring

through early summer. Hours of operation for the crusher are generally 7:00 A.M. to 5:00 P.M. Monday through Friday.

Looking at the properties around the area, this is the site itself. This slide was taken earlier this spring. You can see there are some piles of road construction materials on it. You are looking west across the site. There are grain elevators on that site and that area is zoned "GI" General Industrial. This is north of the site. This right now is currently being developed as a soccer field for adult soccer league. Generally, this immediate area around the rock crusher site is some of the last undeveloped properties between 37th Street North and 29th Street North. We have development that is just beyond the soccer field here which is abutting the crusher site to the south. We have shipping and receiving that is just beyond this picture on the north on both sides of Ohio. We also have a small concrete cutter business that is north of this site on the eastside of Ohio. South of this site is the Burlington Northern Industrial Park. Again this area between I-135 and Broadway, 37th Street North and below 29th Street and beyond is zoned "GI" General Industrial, which is the most intensive use that we allow in the City. This is east of the site, it is undeveloped, and is part of the approximately 28 immediate acres that we are looking at. It is owned by Burlington Northern. This does not extend all of the way down to 29th Street. That has a different property owner. This is the concrete batch site as it was approximately 6 weeks ago. Again, this site is on 11.4 acres that is adjoining the rock crusher site on the north side.

As mentioned, the area immediate around the site is primarily undeveloped.

In regards to this development, the Park Department has received calls from groups that will be using the adult soccer fields expressing opposition to the proposed rock crusher being located next to their playing fields. Concerns identified to date include: noise, dust, truck traffic and extended hours of operation. It should be noted that since this staff report has been written there has been extensive dialog with the Park Department and the applicant. Since the D.A.B. VI meeting which was on May 6th of this year, there has also been some dialog with the adult soccer field players or the group representing them. So a lot of these concerns have been addressed in an informal setting outside of the public hearing forum. The applicant has discussed with the Park Department these issues and with the soccer field representatives. The soccer field should be ready for use in the Spring 2003. The Park Department has owned this property prior to the Conditional Use being filed. They are developing it as a soccer field right now. The season that they are looking for this to be ready will be Spring of 2003. This soccer season will run from Easter to Thanksgiving. The hours will be basically (Sunday) game days 9:00 A.M. to 7:00 P.M. There could be some Saturday games that could be make-up games, and then practices I believe right now are Monday and Tuesday 6:00 P.M. to dusk.

Now the applicant for the rock crusher has indicated the days of operation for the crusher; there is some flexibility there. They are looking for 20 non-consecutive days to operate. With the hours of operations 7:00 A.M. to 5:00 P.M. Monday through Friday, and the hours and days of the usage of the soccer fields, there does not appear to be an area of conflict with these two operations. Planning staff has also met with Environmental Health and Code Enforcement, who are in the audience now, and the

Park Department is also represented, in case the Planning Commission would like to ask any question of these groups.

D.A.B. VI recommended approval of the Conditional Use at their May 6th meeting, voting 8-1 per staff's conditions with modifications in regards to having the landscaping and berms in place within 60 days of the approval of the Conditional Use, and they specified that the 20 days of operation for the rock crusher are not consecutive days. The applicant was present at the D.A.B. meeting and the 20 days, non-consecutive days, were at that time articulated, and it was agreed that was how that would be used. The Board of Park Commissioners voted to approve the Conditional Use 7-0 at their May 13th meeting, per staff conditions and the noted modifications recommended by D.A.B. VI.

Staff is recommending that this Conditional Use be approved. We are looking at considering the proximity of the site to the I-135 project and the importance of what that is to the City. We are looking at the limited duration for which the rock crusher is needed, and we are also looking at the relationship between the rock crusher and the concrete plant. This is not an essential relationship but it certainly is one that would make the operations of the concrete plant with the crusher next to it certainly more efficient. We have 10 conditions that we have recommended with this Conditional Use. If the Planning Commission would like for me to, I would go over each one of these conditions individually, or if you would prefer I would simply at this point entertain any questions from the body.

MICHAELIS: Let's do it by question. I think that might be a little easier.

HENTZEN: Who is the owner of Lot 4 just north of this applicant?

LONGNECKER: The Park Department.

HENTZEN: The Park Department, not the City of Wichita.

LONGNECKER: The City of Wichita is the property owner.

HENTZEN: What is the zoning on Lot 4?

LONGNECKER: The lot is zoned "GI" General Industrial. The adjacent zoning and land use is "GI" Industrial going all four directions, south, north, east, and west.

HENTZEN: Does the City of Wichita need a Conditional Use to move those soccer fields out there to Lot 4?

LONGNECKER: Parks are permitted by right in any of the zoning districts within the City. They do not need a Conditional Use.

HENTZEN: But the owner of Lots 3 and 2 do need a Conditional Use?

LONGNECKER: For Lot 2, for the concrete plant, no they do not need a Conditional Use. This is a permitted use by right in "GI" zoning. The rock crusher is a Conditional Use in "GI" zoning, and I have listed the other zonings on page 4 of the staff report.

HENTZEN: I understand that. I just wanted to get clear that on "GI" zoning, the owner of the property that made this application is required to get a Conditional Use, but the owner of the property next to him is not required to get a Conditional Use.

LONGNECKER: For those uses, yes, the park versus the rock crusher.

HENTZEN: Let me ask you. The existing soccer fields up there, why is it being moved to this location? Do you know?

LONGNECKER: We have had fairly extensive conversations with different members of the staff in regards to why that is being moved. The understanding that I have is that those fields were there on a temporary basis. The City does own those properties that they are playing on now off of 37th Street – east of Ohio. My understanding is that at this point the feeling is that this is a piece of property that there has been, as recently as within the last three months, some interest has been expressed in developing this for a use that would be a "GI" nature more or less "LI" in nature. I believe and my understanding is, that the City feels like this location could be used for development for a revenue generating business. So the soccer fields were put there on a temporary basis with the understanding that they were looking at other sites for a permanent home. Currently that permanent home has been the lot that is adjacent to the rock crusher.

HENTZEN: Where is the crowd for the soccer complex going to park?

LONGNECKER: Right now the soccer players and anybody that would want to use that complex would have to park on Ohio Street. My understanding, with talking with the Park Department and other members within the City, is that they are actively looking for more land to address the parking to get it off the street. That has been fairly intensive dialogue in the last month.

HENTZEN: Almost every commercial development that comes along here we have some rather serious parking requirements, and if they don't have enough spaces they don't get the permit. But now we have got a case which really could draw some pretty different crowds up there and the families all coming and everything, but we are not going to require them to provide any parking on their own lot, on Lot 4. Is that right?

LONGNECKER: The Park Department has been told by the Planning Department that parking does need to be addressed. At this point the Park Department does not have the property to do this. The Planning Department has also been directed by the City Manager to have different functioning departments within the City address development standards.

HENTZEN: What is the closest residential to this spot?

LONGNECKER: The closest residential would be on the east side of I-135 or on the west side of Broadway. Ohio Street is a little beyond the midway point of that so we are looking at more than a ½ mile either way, east of west; north and south it would be even further.

HENTZEN: Would you point out again, who is here to speak from the Park Board?

LONGNECKER: Walt Bratton from the Park Department is here and Randy Owens from Environmental Health, and we have the applicants and we have representatives of the soccer league also.

HENTZEN: Thank you, I will save some questions for them. These are good questions.

LAUGHTER

HENTZEN: I didn't say anything about the answers; I just said good questions.

MICHAELIS: Any further questions of staff? Seeing none will the applicant come forward, please?

DAVID E. WITTEWER, 2919 S. WEST STREET, P O BOX 12500, WICHITA, KS 67277-2500: When we started out on this we knew this was going to be a tough task. Initially we didn't realize that there was going to be a soccer field that we were going to have to deal with. The property that we purchased is located right along the railroad. It has direct access from our quarry over at Mollen. It is an industrial area and we felt like initially we would look for other property for the soccer field. We were going to trade with them. We looked extensively so that we could buy property that would be away from this particular site for them. It is very difficult for us to see how we could have a soccer field right in the middle of an industrial area. We were not the only people in that area that is going to affect the soccer field. The Cornejos have a materials storage handling yard just east of this. It is going to have a tremendous amount of truck traffic that is going to be traveling right along this street passing the soccer field. We know that it is going to be a concern, and we have tried to address this. In our particular case we are willing to put up a berm along the north side of our property. It is already there to minimize any impact to the soccer field.

Basically this is a job specific need for next year. We will have to find a place to crush the material for I-135, for recycle. So we were willing to jump through quite a few hoops, to do that to make sure that we would minimize the impact to the soccer field and the people that will be playing there. We feel like that it is limited use, and we are only asking for 20-days and we are not asking for a long period of time. We are going to be crushing concrete, which is basically not tremendously hazardous. We are going to do everything we can to control the dust. The crusher that we are using is an impact crusher. It does have very little dust output. We have been down on I-135 now for about three months. We have not had one complaint on noise or dust. We have been very sensitive to that issue. We are just about to finish up there this week. We have crushed about 60,000 tons of material there. We will not crush quite that much next year, so that we really feel like the actual impact of the soccer field is going to be

minimal. We are willing to put sprinkler systems on our stock piles. We have already covered the yard located in this area with asphalt millings to minimize any dust. We feel like maybe it is not as good as it could be, but it is the best situation we can come up with trying to deal with the soccer field as it is. So we have tried to examine as much of that as we can and address it.

JOHNSON: Would this rock crusher be similar to the one that is on MacArthur by the Big Ditch?

WITTWER: I am not familiar with that crusher.

JOHNSON: The one Burgkamp's got.

WITTWER: I am not sure what type of crusher that is.

HENTZEN: Item number five, according to staff, was a limit on the height of the aggregate piles, can you live with that condition?

WITTWER: We can live with it in that immediate area. We would need more height in our stockpiles that are actually south of there, but it is not in this Conditional Use permit. But yes, we can live with the 20 feet.

MICHAELIS: Any further questions of the applicant? Thank you Mr. Wittwer, anyone else in the audience wishing to speak on this Item?

JAMIE LOPEZ, 3995 E HARRY, SUITE D-12, WICHITA KS 67218, representing the Latino Soccer League as President of the Hispanic Native American Collation: I think I agree with what Mr. Wittwer said in terms of no one could have predicted what could have happened. I think if we had a chance to do this all over again we certainly wouldn't be here. It is unfortunate that it has come to this and quite frankly, I certainly appreciate all of the gestures and what not that Wittwer has offered throughout this process.

Unfortunately, if we look at what lead us to ask for the 30-day deferment when we began this back on the 23rd of May, we are pretty much back to where we started in terms of the issues and some of the options that are being offered. I think we are closer to an agreement that I think we could all live with, particularly the 500 players and their families that are affected by the rock crusher company and the ramifications of that. But, unfortunately we don't have anything tangible other than some possibilities, and so from our aspect without us having something that we can hang onto in terms of something contractually with the City, we are forced to pretty much say that we are still opposed to the issue because we really haven't resolved anything within those 30 days. Although it would be wrong of me not to at least acknowledge the effort and certainly we are still willing to come to the table to discuss those, but until we get to a point where we can get something beyond just possibilities, we still have to voice our opposition in terms of the health and the other issues that have been raised by the league.

BLAKE: Are you still looking for an alternative site to put the soccer field?

LOPEZ: Yes.

HENTZEN: First of all, I am glad that you are here. I am glad there are many more Spanish speaking people in this county than there was ten years ago. But, I want to ask you something. Will there be illegal and non-greencard holders playing on this field or attending the games?

LOPEZ: Other than me maybe going and checking, I really wouldn't be able to tell you. There is that possibility, but I don't make it a point to go check.

HENTZEN: Let me tell you why I ask that question. Here we got an American citizen that owns this land, and it is properly zoned, and we are going to put some pretty steep restrictions on him so that somebody that shouldn't be here is comfortable. That makes me nervous about the way we treat American citizens.

LOPEZ: Can I comment on that? I as an American citizen born and raised here; I have the same aspirations and have the same concerns. I don't make any difference in terms of whether they are here legally or not, simply because they are human beings just like you and I. We breath the same air, bleed the same amount of blood; so while I appreciate your comments, I want to make sure, speaking for me and for my family, we certainly have done our time as well.

MICHAELIS: Did I understand that essentially that the practices are from 6:00 P.M. until dusk and the games are on the weekends?

LOPEZ: Correct, normally the Saturdays are used for make-up games whenever weather is an issue.

MICHAELIS: Say a normal game, would it be in the 6:00 P.M. to dusk hour?

LOPEZ: No, on a Sunday it will begin as early as 7:00 A.M. and end as late as 9:00 P.M.

MICHAELIS: Okay, so like during the week, there is nothing during the day until 6:00 P.M. in the evening?

LOPEZ: Correct.

MICHAELIS: Okay, this crushing operation is going to cease at 5:00 p.m., an hour before you have anything?

LOPEZ: Correct.

MICHAELIS: And they are not going to operate on weekends.

LOPEZ: Correct.

MICHAELIS: So I am having a real hard time understanding why this is a problem.

LOPEZ: Again, the issue for the players is that they feel that some of the health hazards, in terms of the dust particularly.

MICHAELIS: But they are in an industrial area, Mr. Lopez.

LOPEZ: I understand that, and like I said early on, if we had to do this all over again we certainly wouldn't be here today, but unfortunately we are there.

JOHNSON: Mr. Lopez, have you visited any sites where there has been a rock crusher?

LOPEZ: Actually I visited their site off of 21st and I-135.

JOHNSON: How much dust did you observe off of that?

LOPEZ: It was minimal, but I noticed that a lot of the employees that were near there carried masks.

WITTWER: You have to, it is required.

LOPEZ: In all fairness to them I did visit and I did go.

JOHNSON: I have been on the Planning Commission for some time and we had a rock crushing case, how long ago was that?

KROUT: About two years ago on MacArthur, and maybe three or four years ago out on Webb Road.

JOHNSON: I know that everybody was concerned about those. I live close to the one that is on MacArthur and I travel that road lots. I have never heard any noise from it and I have never seen any excessive dust coming from it. I guess my thought is that I think we are blessed to have a location this close to where the material is going to be hauled from rather than shipping it clear across the City where those trucks that go by 15 soccer fields and ten ball parks and all kinds of stuff. I know maybe everybody thinks somebody is going to lose in this case, but I think they have worked real hard and I don't see a problem with the rock crusher there.

ANDERSON: We recently had a request to locate a housing facility for parolees or something from the State system.

KROUT: The Day Reporting Center.

ANDERSON: It was going to be located in this area too, and my question is: Has the City Council approved of the location of this soccer field there? I am talking to the park people.

BRATTON: Yes.

ANDERSON: In other words, they have decided to use this land for that purpose? Originally the land was acquired for industrial purposes. It was not acquired for

recreational facilities. It was acquired to eliminate slum and blight which was in that area. If you can go back and remember what it looked like all the way up to 37th Street, it was a dismal area, and it has now been improved. We have got a lot of vacant land because we have not redeveloped it as a community.

Frankly, I am sorry to hear that the City Council has approved this for recreational purposes. It doesn't fit in that location at all. I think what we should do is go ahead and allow the site to be used for the purposes that it was originally acquired by the City. And in fact, if you go back and look at some of the Urban Renewal Laws, I think there is some question in terms if they use the land, if the City uses the land for other than what it was originally acquired for, we are subject to some problems as a result of that land returning to its original owners, which has happened in the past in certain instances. I think we ought to go ahead and approve this request.

BISHOP: Mr. Lopez, what about the parking and traffic? As I understand it, people playing soccer are parking along Ohio Street. The rock crusher site is also using Ohio with a direct access point to get into the facility.

LOPEZ: Yes, Ohio is the street we use to park on during the soccer games and practice.

BISHOP: Mr. Lopez, I have some questions and concerns about the parking situation and traffic. Maybe it was in the staff report or was discussed at the D.A.B. and I missed it. But, as I understand it right now, parking is along Ohio. Perhaps this is a question for the applicant or staff, but is access to the rock crusher site also going to be along Ohio?

LONGNECKER: Yes it is.

BISHOP: It seems to me like that is going to be some pretty intensive use of that street and I have some concerns about that and I think that needs to be addressed. I certainly see the ramifications of the application, but somebody, the City Park Department or somebody, needs to address that. Does the Park Department have any comments on that or anything to offer? I realize alternative sites are being sought, but if alternative sites are not going to be forthcoming in the next few months, what kind of assistance can you give the soccer field folks to get them off the street to not have a lot of conflict between the two types of traffic? One of which has small children often.

WALT BRATTON, Park and Recreations Superintendent for the North Division for the Park and Recreations Department: I would say ninety percent of the soccer activity takes place on Sunday. There is the coaches meeting once a week on Monday, and there is practice maybe once or twice a week on evening nights between like 6:00 P.M. – 8:00 P.M. There are minimal to no games, unless they are make-up games, on Saturday, which are not very frequent unless it is the weather. All the activity takes place on Sunday. I personally attend probably all of the Sunday games and do site visits. Ohio Street from 29th Street and Ohio to 37th Street and Ohio is a ghost town from 5:00 P.M. on Friday until 8:00 A.M. on Sunday. There is not activity there other than the players. So for them to park on Ohio Street parallel on the east and west side of the street is fine because the rock crusher closes Friday at 5:00 P.M. and there is no activity until they start again Monday morning at 7:00 A.M. So the only traffic that is

going to be going up and down this street is going to be the participants, and the patrons and the players parking along Ohio.

BISHOP: I see. I understood that there were some weekday daytime games.

BRATTON: No.

JOHNSON: Of all of the facilities that you oversee, whether they are other soccer fields or ballparks, does all of them other facilities have parking only on the street?

BRATTON: We have some facilities that have minimal parking which would be like 10 spaces or less, or ninety-five percent of the parking would be on the street. For example, their previous place to play was at Schell Park. There was one soccer field there and it was not age appropriate. It was mainly for youth, and ninety-five percent of the cars parked in the neighborhood are on the streets there. There is maybe only a 15 to 20 space parking lot where they previously played at Schell Park, so they were parking on the street before and now they still are out there on Ohio.

GARAFALO: Mr. Lopez, I not quite sure I understand what you mean in getting some kind of agreement or whatever. You used the word contractual. Are you aware of all of these conditions that we are placing on this Conditional Use?

LOPEZ: Yes, we are. I think I was referring more to the idea that we are still in the process of negotiating with the City for an alternative site. It has nothing to do the rock crusher. Other than until we have something tangible, we still have to oppose Wittwer using the rock crusher, because the only option at this time without any alternative is for the soccer players to use the fields north of the proposed rock crushing site.

GARAFALO: You are aware that in these conditions that they are not going to be operating when you are playing and all that stuff. That issue is more between you and the Park Department and the City of Wichita.

LOPEZ: Yes, we are aware of the conditions. I would prefer to think of it as the City of Wichita.

MICHAELIS: I have a comment for Mr. Lopez while you are still there, and I hope this comes across the way they I intend it. You just made a statement that very well sums it up. Your issue is really with the City of Wichita and not with Wittwer, so I think it is being a little unfair for you to be trying to penalize Wittwer for negotiations you are having with the City. You had also made a comment about your only real concern is because of the hazardous possibility and everything else, and I happen to be in the construction industry, and I tell you without the Hispanic community there wouldn't be a construction industry. It is very heavily Hispanic. The Hispanics work very hard. They show up when they are supposed to show up, they are excellent workers. But, I have yet to see any of them that are afraid to get into anything whether it is dirt, concrete, fiberglass, it doesn't matter. If it is a job that needs to be done, they get it done. I am having a hard time understanding why you are trying to penalize Mr. Wittwer when actually your conflict is with the City, not with them.

LOPEZ: On the one hand I don't see it as us penalizing anyone other than trying to raise an issue that is of concern. While I realize that the male adult players are also a lot of the labor that you are referring to, in fact some of them are employees of Wittwer. It is the women and the children that are the ones that are raising the issue about the hazards of being there with their young kids and themselves. Because, traditionally we do those kind of things as a family, and so it is those issues that I have been asked to bring to you. While I realize that from a development standpoint they have every right to be there, and I am in a very awkward situation in terms of what I understand what you are saying, but at the same time it would be wrong of me not to at least verbalize those concerns.

MICHAELIS: Any other questions for Mr. Lopez while he is up here? Thank you, sir.

HENTZEN: Have you been down to the soccer fields between Haysville and Wichita. I believe they call them the south soccer fields?

BRATTON: Yes, they are underneath the South Superintendent's jurisdiction.

HENTZEN: Have you run any dust storm measurements down there? I have been there and I want to tell you, if you are concerned about dust maybe you should apply some attention to that.

MICHAELIS: Any other questions? Anyone else in the audience wishing to make any further comments or to speak on this item? Applicant, you have two minutes of rebuttal time if you need it.

WITTWER: We are willing to do as much as we can do to be a good neighbor to the soccer fields. As far as the traffic is concerned, I think that is going to be a real concern. We are going to have trucks in that general area and there are going to be other trucks. We will not crush on Sundays, or work on Sundays. We do work on some Saturdays. We will not be crushing material on Saturdays, but we will be utilizing the batch plant and having trucks go down that street and through the drive-ways adjacent to the soccer fields. We will do whatever we can to minimize the impact and be a good neighbor if the soccer fields have to be there and we are allowed to go ahead and do the crushing for this project.

MCKAY, Jr.: Marvin, this Conditional Use is just for during the time that they are working on the highway right?

KROUT: Right. If they decide that they want to use it for a longer term, they will have to come through the process and ask for a renewal.

MCKAY, Jr.: Has anyone talked, Mr. Lopez, talked with the Park Department? There is tons of land down there that they can park on and get it off the street. Has anyone talked about this? Right across the street from the soccer field there is vacant land.

MICHAELIS: Mr. McKay, can you put that on hold for just a minute? Since there is no further discussion or no other speakers, the public hearing portion is closed and remainder of the discussion will be by the Planning Commission.

MCKAY, Jr.: There has got to be at least 60 acres of ground down there that is vacant or in that close vicinity thereof. I think right across the street from Ohio is a big vacant field. If I am not mistaken, I think if the Park Department and Mr. Lopez's organization would get together, I think they could figure out something for the parking and get them off of Ohio Street. I have been to the soccer project when they are playing and you are right, there are tons of people out there. I don't know what is happening out there. As much vacant land that is out there and we are having a parking problem, it seems a little ridiculous to me.

MICHAELIS: As a follow-up to that, Mr. Longnecker, I don't know if you can answer this, but it seems like I remember reading some place where they had planned on using this Lot 2 as parking on the weekends. Did I read that some place or do you know?

LONGNECKER: In regards to the vacant land that is in the immediate vicinity of the soccer fields, there have been negotiations going on between Wittwer and the owners of the property, Property Management with the City and the owners of those properties, trying to broker a deal to get enough property to address not only the playing fields but parking, as well as some bleachers and bathrooms. At this point those negotiations have not brought any more land to the soccer field. However, my understanding is those negotiations have not ended, they are still in some form continuing. So yes, there is a lot of vacant property over there. One of the owners they have been talking to is Burlington Northern, and they are the people that have the property on the east side of Ohio that abuts to the borrow pit. Again, Wittwer's group, Park Department, Property Management have been talking with the owners of those properties in the immediate area to acquire more land so we can get the parking off of Ohio Street, and look at developing this soccer field in a more complete plan. At this point though those negotiations and dialogue haven't brought any more property to the soccer field site.

BISHOP: I would like to underline the concern about the parking situation. I think that the Conditional Use is one thing and I am ready to look at that issue on its own merits. However as Planning Commissioners these are obviously not complimentary uses that have come about, and we are kind of stuck with it. I think the parking situation is untenable, whether it is the trucks going to the rock crusher or simply trucks going to the industrial uses in that area. It is a real concern where you have cars parked along the curb. Kids run out into the street to get into the car and they don't always look where they are going. Whether it is other cars going up and down or trucks going to other businesses, I think that we need to underline that really needs to be addressed. I realize some efforts are being made in that regard, but it is nonetheless real.

LONGNECKER: Separate from the Conditional Use for the rock crusher, the fact of the matter is the concrete plant is there by right. It is going to be generating traffic according to what the project is. Everybody that has been involved in this Conditional Use application and the extensive dialogue in regards to trying to make these two uses that are on the opposite ends of each other more compatible have been part of the dialogue. The applicant and the Park Department and Property Management, again, they have been working on this. I compliment all three groups and they have been addressing this issue, but at this point we are going to have parking on Ohio Street, we are going to have traffic generated by the concrete plant which is there "by right", and

Planning staff has looked at the Conditional Use. You have got to have a Conditional Use in any kind of zoning for a rock crusher. The applicant has worked with the Planning staff in regards to making sure that we have a buffer there that kind of minimizes the effects. But, the parking is as it is now and we haven't got an answer to that. Parks Department is aware of this issue. Besides just meeting the Code as you pointed out we have a public safety issue here too.

HENTZEN: There are not any cross roads between 37th and 29th. It is Ohio Street straight through, so fortunately that minimizes the safety hazard. I want to encourage the Park Board not to start sticking soccer fields or any other fields right in the middle of a commercial district. This is the heaviest commercial zoning we got, "GI" General Industrial. The requirements are already there, and to think that somebody wanting to put up a decent plant and hire some people or considerable people that we are going to have to worry about the Park Department putting a soccer field or a basketball court right next to it. Mr. Chairman, if all the questions are answered I am prepared to make a motion.

MICHAELIS: We have one more Commissioner, Mr. Warren, you have some discussion?

MOTION: To approve, subject to staff comments and requirements, **except to delete condition three completely out**, and citing the findings in their report.

HENTZEN moved, WARREN seconded the motion.

WARREN: To justify what Commissioner Hentzen is saying, this is kind of a reverse situation. Normally, we are scrutinizing and critiquing business who is moving into the neighborhood and in doing so creating a hardship and maybe lessening of values, and that is exactly what is happening here in reverse. The City is bringing a use that is going to hurt the values of these people who have bought their land for industrial use. I think it is wrong. I don't think the City ought to have any more right to do that than business has a right to do that in reverse working within the neighborhood. This is an industrial district. Nobody can question that, and now to bring in another use is a hardship on those people up there that have bought their land in good conscience to use as it was zoned.

MCKAY, Jr.: Marvin, if this was located anywhere else would condition three be one of the requirements?

KROUT: I think the reason that a rock crusher is a Conditional Use is because it can be a problem, even in another type of industrial district, just like the Day Reporting problem....

MCKAY, Jr.: No, I am talking about the requirement for the landscaping berm. Is that normal?

KROUT: It is not normal, but we could have other situations where we would have an industrial zone area with users in there who would object to the introduction of a rock

crusher. In fact, we had some opposition to a rock crusher, I remember on Webb Road, in the Comotara Industrial District. I don't remember whether or not they were required to do landscaping, but I think that is the purpose of a Conditional Use, is to try and tailor conditions that are appropriate to the surrounding area and to make it a compatible use. That is the reason that it is tagged as a Conditional Use, and isn't a use by right in the industrial district. I would strongly urge the Planning Commission to follow the staff recommendation, the D.A.B. recommendation, the Park Board recommendation and what has been volunteered by Wittwer, and try to make the best of the situation.

BISHOP: I agree. I think to go to the extent they have submitted a plan which includes the berm and I think the applicant has proven that they are willing to go the extra mile. I believe in the event, I could check on this I guess, but in the event that the soccer field does move and that would possibly change some of the requirements, I think that an administrative amendment or whatever would be needed. However it seems to me not all that unreasonable and for us to bend over backwards to actually take away something that they seem to be voluntarily complying with is overkill. You guys seem determined to push me into the minority. I was prepared to vote for it.

JOHNSON: Marvin, since the soccer field is not there yet, and that property is zoned heavy industrial. In the event that they do find another location for the soccer field, you are still saying there would be a landscape requirement between these uses?

KROUT: At this point the Park Department has installed irrigation and is in the process of seeding and needs this growing season to establish an appropriate turf for the soccer field, and the only option is for them to continue to locate on the temporary field, which wouldn't be as good a situation in terms of the field itself. So there has already been an investment in there, and if there is not a solution by next Spring, it is either going to go back to the temporary location or they are going to play at least one year on this field that has already been prepared.

JOHNSON: I guess what I am looking at though this is something that is going to be used for a year and a half. If it was going to be a permanent thing for a long period of time, I might be able to see that, but for a year and half on a temporary basis. Now, if they come back and want to leave it there permanently I think the standards need to be addressed differently. Is this the toughest requirements that we have put on a Conditional Use for a rock crusher?

KROUT: Yes.

WARREN: I see a sincerity on behalf of the applicant to be good neighbors, and I wouldn't be surprised if that number three was deleted that they still would probably do everything they could. I don't think that we ought to require them to do it. I think they might do it, but I don't think it ought to be a government requirement in this case.

HENTZEN: The reason that I asked the questions about residential was because I was thinking that if it was near a residential area maybe the dust control is a more serious problem and I don't think that it is. I think it is just that the staff has gotten in the habit of milking that landscape ordinance for all that it can be. And I think it is unreasonable because say the Park Department puts it over there, and a year and half or two years

from now they have a better place for it, what is a guy going to do tear down his berm and take down his trees? I think that it is unreasonable.

HENTZEN: Call the questions. **WARREN seconds.**

GAROFALO: With all this talk I am getting a little bit confused, which is easily done. This rock crusher is going to be a temporary thing. This is going to be a temporary operation, and will be used probably only for 20-days, non-consecutively days, and then it will be taken away when they have concluded their work?

KROUT: I think it would be better for the applicant to respond on what their plans are. Rock crushers can be fairly easily moved from site to site, and so it maybe depending on the jobs that they have after this first year that they would want to keep the rock crusher or not at this location. But, because of the uncertainty, and the fact that it is adjacent to the park use, and because we did do that with the Webb Road site in a very limited Conditional Use: make sure they are good neighbors by asking them to renew after a year or two. But whether or not they intend to continue after this particular job, I don't know.

GAROFALO: Let me ask the applicant then, it should be a simple yes or no.

MICHAELIS: Mr. Wittwer, would please come to the microphone please?

GAROFALO: That concerns me about this condition number three then. I see no sense in planting trees and things for 20 days, how ridiculous. But what I want to know, is this going to be permanent, temporary or how long are you going to be there?

WITTWER: We wanted to start out on a temporary basis to prove that we could be good neighbors. Down the road we would like the ability to crush rock there in the future. We already have the berm in place. We put it there just so that we could protect ourselves from the property north of us.

GAROFALO: You are saying that this could possibility be a permanent thing?

WITTWER: Yes, very much so.

GAROFALO: That makes it different in my mind then.

WITTWER: But, initially it is very important to this project which is a temporary need. In the future we thought that if we could be a good neighbor, and prove to the people at the soccer field or whoever that we could do that and not inhibit what they are doing, then we could come back and say we would like to do this on a permanent basis.

GAROFALO: You don't have a big problem with putting up trees, a berm and so forth?

WITTWER: We offered that as part of us our deal. It is not too terribly much a hardship on us, no. The berm is already there so that is not too tough for us, we appreciate what you are doing though as far as making it workable, but we thought if that is what it took to get it in there, it was worth it to us.

MICHAELS: Call the question on the original motion.

MOTION: To approve, subject to staff comments and requirements, **except to completely delete condition #3.**

HENTZEN moved, WARREN seconded the motion, motion failed (4-6). Anderson, Michaelis, Hentzen, Warren voted in favor of the motion.

SUBSTITUTE MOTION: To approve, subject to staff comments and citing the findings in their report.

BISHOP moved, BLAKE seconded the motion, and it carried (9-1). Hentzen, opposed.

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5. **ZON2002-00027** – Vern and Toni Holzman (Owner/Applicant); Baughman Company, P.A., c/o Russ Ewy (Agent) request zone change from “SF-20” Single-Family Residential to “LC” Limited Commercial with a Protective Overlay.

A tract of land in the NW 1/4 of Section 3, Township 28, Range 2 East described as follows: Commencing at the SW corner of said NW 1/4; thence north along an assumed bearing of N 00 degrees E of a distance of 211.69 feet to the point of beginning; thence N 90 degrees E, 382 feet; thence N 00 degrees E, 123 feet; thence N 90 degrees W, 142 feet; thence S 00 degrees W, 93 feet; thence 90 degrees W, 240 feet to a point on the west line of said NW 1/4; thence S 00 degrees W along said west line, 30 feet to the point of beginning; except the west 60 feet thereof. Generally located One-half mile south of Pawnee and east of Greenwich.

MICHAELIS: I believe there is a request from the applicant for a deferral on this case.

BAUGHMAN COMPANY, P.A., %Russ Ewy, 315 Ellis, Agent: Yes, we would like to see this case deferred to the next MAPC meeting for additional time to prepare a presentation.

MOTION: To defer Item for to July 11, 2002.

MCKAY Jr., moved, BLAKE seconded the motion, and it carried (10-0).

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6. **ZON2002-00028** – Lena E. Chambers (Owner/Applicant); Doug Eck (agent) request zone change from “LI” Limited Industrial to “GC” General Commercial.

Lot 1, 2, and 3, Block 23, Diamond's Addition to Oatville, Sedgwick County, Kansas. Generally located west side of Young Street, approximately one block north of MacArthur (3837 S. Young).

MICHAELIS: There is letter dated June 20, 2002 from the Agent, Doug Eck requesting this applicant be withdrawn. They were informed yesterday that the Health Department has backpedaled and now says that they will be not be able to obtain a septic permit, which they were told several months ago that they would be able to obtain.

GAROFALO: I know that Item #6 has been withdrawn but a question came to my mind. If you will look on the last page of the report, Item #4 were it talks about the requested change to "GC" is one step closer to residential use but is not strictly in conformance with the Comprehensive Plan. The entire area would need to be rezoned to "TF-3" in order to make the area in conformance with the Comprehensive Plan. My question is could the Planning Commission move or whatever to make that zone change?

KROUT: Not, on the request.

GAROFALO: No, not on the request I am talking about...

KROUT: Could you change the zoning on that whole Oatville area to residential?

GAROFALO: Is that a possibility to do something like that?

KROUT: The Planning Commission or the City Council can direct that a public hearing be held to determine the proper zoning on any piece of property or any group of properties. And then we would do a staff analysis like we would do for an individual request and make a recommendation, and then you could make a recommendation. You could down-zone large areas. But, I think you have to be real careful if and when you do that. Because you may be taking away development rights from people that have bought the property based on an expectation of being able to do some things. You need to look at what the character of that area is, and if you have been out to the section of Oatville, and it is not your normal residential area, probably the Comprehensive Plan anticipates that there would be large-scale redevelopment of that area, and not just piece by piece that we would down zone it because that is what is out there today.

GAROFALO: My only question is to maybe look at places like that. I am not saying that area in particular, Oatville.

KROUT: I think that there are other areas, and in fact a couple of Neighborhood Plan areas, like in the Mid-town area. There is in fact a moratorium right now on development in the Mid-town area on certain types of development and certain areas, pending the completion of this Neighborhood Plan, so there may be some changes in zoning that would be recommended based on that.

MICHAELIS: I would like to recognize City Council member Mr. Gale who is in the audience today, and we thank you for coming and I hope you heard most of that discussion on that item.

BISHOP: Especially about the parking situation.

The Metropolitan Area Planning Commission informally adjourned at 2:40 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2002.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)